

REMARKS

Overview of the Office Action

Claims 1-3, 5, 6, 9, 11-13, 17, 19-25, 33-42, 47, 48, and 50 have been rejected under 35 U.S.C. §102(e) as anticipated by U.S. Patent Appl. Pub. No.: 2002/0123327 (“Vataja”).

Claim 4 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Vataja in view of U.S. Patent Appl. Pub. No.: 2005/0113107 (“Meunier”).

Claims 10 and 49 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Vataja in view of U.S. Patent No.: 6,647,257 (“Owensby”).

Claims 14-16 and 18 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Vataja in view of U.S. Patent Appl. Pub. No.: 2002/0032035 (“Teshima”).

Claims 28, 29, 30, 45, and 46 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Vataja in view of U.S. Patent No.: 6,987,976 (“Kohar”).

Status of the claims

Claims 1, 20, 33, 40-42, 47, 49, and 50 have been amended.

Claims 7, 8, 26, 27, 43, and 44 have been previously canceled.

Claims 2-4, 21 and 23-25 have been canceled hereinabove.

Claims 51-53 have been newly added.

Claims 1, 5, 9-20, 22, 28-42, and 45-53 are now pending.

Summary of subject matter disclosed in the specification

The following descriptive details are based on the specification. They are provided only for the convenience of the Examiner as part of the discussion presented herein, and are not intended to argue limitations, which are unclaimed.

Applicants' specification discloses a technique to electronically deliver a message from a sender to an intended recipient based on tracking movement of a mobile object. The technique includes enabling both the sender and the intended recipient to send and receive an electronically deliverable message, obtaining a message provided by the sender, obtaining a location designated by the sender for delivery of the message, tracking a specified mobile object having a position-determining device that determines its own current position, and which transmits its then current position at preset time intervals. The technique further includes determining from the transmitted current position whether the specified mobile object has reached the designated location, and initiating a procedure for automatic delivery of the message electronically to the intended recipient upon the specified mobile object being determined to have reached the designated location. The specified mobile object is identified by the sender, and is other than the intended recipient.

Descriptive summary of Vataja

Vataja discloses a method for the transmission of a location-based message (6). In the method, at least one recipient (2) is determined for the message, and the message is transmitted from a sender's (1) wireless communication device (3) to a wireless communication device (3') of one or more said recipients (2). The method includes a positioning step for positioning the sender's wireless communication device (3), a range definition step for defining the message

transmission range, a detection step for detecting whether the recipient of the message is located within the message transmission range, and a presentation step, wherein the message is presented in the recipient's wireless communication device (3'), in case the recipient of the message is located within the message transmission range.

Descriptive summary of Kohar

Kohar discloses a method and system for providing position information of at least first and second mobile terminals, which are part of a mobile network. The mobile network includes a position determining unit to determine the position information of the first mobile terminal, where the first and second mobile terminals are not necessarily communicating with each other. The position determining unit determines the position information of the first mobile terminal, and the mobile network transmits the position information to the second mobile terminal.

Rejection of claims 1-3, 5, 6, 9, 11-13, 17, 19-25, 33-42, 47, 48 and 50 under 35 U.S.C. §102(e)

The Office Action indicates that Vataja teaches all of Applicants' recited elements.

Independent claim 1 has been amended to incorporate the subject matter of original claim 3 and to recite, inter alia, a method to electronically deliver a message from a sender to an intended recipient based on tracking movement of a mobile object, "wherein said specified mobile object is identified by the sender, and is other than the intended recipient".

Vataja fails to teach or suggest, "initiating a procedure for automatic delivery of said message electronically to the intended recipient upon said specified mobile object being determined to have reached said designated location; wherein said specified mobile object is

identified by the sender, and is other than the intended recipient“, as recited in Applicants' amended independent claim 1.

The Examiner cites paragraphs [0004]-[0008] and [0027]-[0032] of Vataja as teaching, “wherein said specified mobile object is identified by the sender, and is other than the intended recipient”. Applicants respectfully submit that Vataja has been misinterpreted.

The passages cited in paragraphs [0004]-[0008] of Vataja recite the following:

“It is an aim of the present invention to provide a new method for transmitting location-based information, and a system for transmitting location-based information, in which system a person can also store location-based information into the system, and this location based-information can later be transmitted to one or several other persons located in the vicinity of the location in question. The invention is based on the idea that the person stores location-based information into the system and determines inter alia to whom the information is intended to be transmitted. When the person or the persons, to whom the location-based information is intended to be transmitted, arrives near the location in question, the stored information is transmitted to the person's wireless communication device or the like. More precisely, the method according to the present invention is primarily characterized that the method comprises at least the following steps: a positioning step for positioning the sender's wireless communication device, a range definition step for defining the message transmission range, a detection step for detecting whether the recipient of the message is located within the message transmission range, and a presentation step, wherein the message is presented in the wireless communication device of the recipient, in case said recipient of the message is located within the message transmission range.” (Emphasis added)

There is nothing taught or suggested in the cited passages of Vataja regarding electronically delivering a message to a recipient when a mobile object, which is different from the intended recipient, reaches a designated location. Rather, according to Vataja, the person (or mobile object) who is tracked is the person who receives the transmitted information.

The passages cited in paragraphs [0027]-[0032] of Vataja simply describe the various components of the system of Vataja, and the conditions required for delivery of a message. In particular, paragraph [0031] recites the following:

“After the positioning the position data is compared to the location data determined in the message in order to determine whether the wireless communication device in question is located inside a range in which the location based message is transmitted. The location-based message contains for example the co-ordinate data and a radius, wherein these pieces of information determine the range within which such a wireless communication device (3') to which the message is transmitted should be. In case one or more such wireless communication devices, to which the target information matches, is found in the determined area, the message is transmitted to such wireless communication devices (3'). The message can be transmitted for example by using said short message service, wherein information about the telephone number of the wireless communication device of the recipient/recipients, as well as the stored message, is defined in the short message. The message is received in the wireless communication device, and the person (2) is informed of the reception of the message. The person (2) can then read the received message.”

Thus, the cited passages of Vataja simply state that if several intended recipients (3') are found in the transmission range of the sending device, then the message is delivered to those found recipients (3'). Vataja does not teach or suggest tracking a device/object that is other than the recipient of the message, and delivering the message to the intended recipients when the tracked device arrives at a particular destination. The recipients of Vataja are not distinguished from one another, and if a recipient is tracked, the recipient receives the transmitted information.

Therefore, Vataja fails to teach or suggest a method to electronically deliver a message from a sender to an intended recipient based on tracking movement of a mobile object, “wherein said specified mobile object is identified by the sender, and is other than the intended recipient”, as recited in Applicants’ amended independent claim 1.

Independent claim 23 has been canceled. Independent claims 20, 33, 40-42, 47, 48 and 50 have been amended to recite limitations similar to limitations added to independent claim 1 and are, therefore, deemed to be patentably distinct over Vataja for at least those reasons discussed above with respect to independent claim 1.

In view of the foregoing, Applicants submit that Vataja fails to teach or suggest the subject matter recited in independent claims 1, 20, 33, 40-42, 47-48, and 50. Accordingly, claims 1, 20, 33, 40-42, 47-48, and 50 are patentable over Vataja under 35 U.S.C. §102(e).

Dependent claims

Claims 2-4, 21, 24 and 25 have been canceled. Claims 5, 6, 9, 11-13, 17, 19, 22 and 34-39, which depend directly or indirectly from one of independent claims 1, 20, and 33 incorporate all of the limitations of the respective independent claims and are, therefore, deemed to be patentably distinct over Vataja for at least those reasons discussed above with respect to independent claims 1, 20, and 33.

Claims 10 and 49 are allowable over Vataja and Owensby under 35 U.S.C. §103(a)

The Office Action indicates that the combination of Vataja and Owensby teaches all of Applicants' recited elements.

As previously discussed, Vataja does not teach or suggest the subject matter recited in Applicants' independent claim 1.

Independent claim 49 has been amended to include limitations similar to those discussed above with regard to independent claim 1 and is, therefore, patentable over Vataja for reason previously discussed with respect to independent claim 1.

Because Vataja does not teach or suggest the subject matter recited in independent claim 49, and because Owensby does not teach or suggest the elements of claim 49 that Vataja is missing, the addition of Owensby does not remedy the non-obviousness of the claims.

Claim 10, which depends directly from the independent claim 1, incorporates all of the limitations of independent claim 1 and is, therefore, deemed to be patentably distinct over Vataja and Owensby for at least those reasons discussed above with respect to independent claim 1.

Claims 14-16 and 18 are allowable over Vataja and Teshima under 35 U.S.C. §103(a)

The Office Action indicates that the combination of Vataja and Teshima teaches all of Applicants' recited elements.

As previously discussed, Vataja does not teach or suggest the subject matter recited in Applicants' independent claim 1.

Because Vataja does not teach or suggest the subject matter recited in independent claim 1, and because Meunier does not teach or suggest the elements of claim 1 that Vataja is missing, the addition of Teshima does not remedy the non-obviousness of the claims.

Claims 14-16 and 18, which depend from independent claim 1, incorporate all of the limitations of independent claim 1 and are, therefore, deemed to be patentably distinct over Vataja and Teshima for at least those reasons discussed above with respect to independent claim 1.

Claims 28, 29, 30, 45 and 46 are allowable over Vataja and Kohar under 35 U.S.C. §103(a)

The Office Action indicates that the combination of Vataja and Kohar teaches all of Applicants' recited elements.

Independent claim 28 recites, inter alia, a method for automatically delivering a message electronically from a sender with a communication system servicing a plurality of potential recipients for receiving a message, and based upon position-determining technology, comprising: "automatically delivering said message electronically to one of said identified recipients based upon

the position of said one of the intended recipients relative to another of said identified recipients, as derived from the position-determining technology”, which Vataja and Kohar, whether taken alone or in combination, fail to teach or suggest.

As previously discussed above, Vataja teaches tracking a mobile device/object and transmitting information to the mobile device/object when the mobile device object arrives at a designated location. There is no notion taught or suggested in Vataja of relative position between multiple tracked devices/objects or transmitting information to one of the tracked devices/objects based on the tracked device’s relative position to another tracked object.

The Examiner cites col. 2, lines 42-56 of Kohar as teaching determining relative position and asserts that one skilled in the art would be led to combine the teachings of Vataja and Kohar to achieve Applicants’ recited invention. Applicants respectfully disagree.

The system of Kohar is based upon the recognition that it may be very useful for a user of a mobile terminal (e.g. a mobile phone or a cellular phone or a mobile radio or a handheld computer/personal digital assistant with wireless communication capabilities) to be able to locate and/or track other users of such mobile terminals even when there is no communication between these mobile terminals (see col. 1, lines 30-36 of Kohar).

Kohar, while teaching determining the relative position of mobile devices, does not pertain to sending information (e.g. messaging) to a particular tracked mobile device in response to the particular mobile device reaching a particular destination. The purpose of the system of Kohar is simply to determine the relative position of two mobile device users in order to ascertain the whereabouts of the particular mobile device users.

Vataja is clearly concerned with transmitting information to a particular tracked mobile device when that tracked mobile device arrives at a designated location. Vataja is not concerned

with what other mobile device are doing. More specifically, Vataja is not concerned with, nor contemplates, a need for transmitting information to a particular mobile device based on the particular mobile device's relative position to another mobile device. There is nothing taught or suggested in Vataja that would motivate one skilled in the art to add a feature where the information is transmitted to a particular mobile device based on the relative position of that mobile device with another mobile device.

Therefore, one skilled in the art would not be motivated to combine the teachings of Vataja and Kohar to achieve the invention recited in Applicants' claims. The only apparent reason for combining these two references is the impermissible use of hindsight based on the present claimed invention.

Vataja and Kohar, whether taken alone or in combination, fail to teach or suggest, "automatically delivering said message electronically to one of said identified recipients based upon the position of said one of the intended recipients relative to another of said identified recipients, as derived from the position-determining technology", as recited in Applicants' independent claim 28.

Independent claims 29, 30, 45 and 46 recite limitations similar to the above-discussed features of independent claim 28 and are, therefore, deemed to be patentably distinct over Vataja for at least those reasons discussed above with respect to independent claim 28.

In view of the foregoing, Applicants submit that the combination of Vataja and Kohar fails to teach or suggest the subject matter recited in independent claims 28, 29, 30, 45 and 46. Accordingly, claims 28, 29, 30, 45 and 46 are patentable over Vataja and Kohar under 35 U.S.C. §103(a).